IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SECOND DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 10523 of 2004

Between:

Smt. S. Vijayalakshmi, W/o. Mallesham, Hindu,
R/o. Jillelaguda, Sarrornagar Mandal, R.R. Distirct.

..... PETITIONER

AND

1 Hyderabad Urban Development Authority, Begumpet, Hyderabad.
Rep. by Estate Officer,
2 Mandal Revenue Officer, Saroornagar Mandal, R.R. District.
3 Indubai Kalidas Patel, W/o. Not Known to the Petitioner, Hindu,
R/o. Karmanghat, Jillelaguda (V), Saroornagar Mandal, R.R. District.
4 Kanala Narasimha , S/o. Durgaiah, Hindu,
R/o. Karmanghat, Jillelaguda (V), Saroornagar Mandal, R.R. District.
5 Kanala Nandam, S/o. Durgaiah, Hindu,
R/o. Karmanghat, Jillelaguda (V), Saroornagar Mandal, R.R. District.
6 Kanala Sachidanandam, S/o. Narasimha, Hindu,
R/o. Karmanghat, Jillelaguda (V), Saroornagar Mandal, R.R. District.
7 Dasari Ranga Reddy, S/o. Not Known, Hindu,
R/o. Karmanghat, Jillelaguda (V), Saroornagar Mandal, R.R. District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ order or direction, declaring the action of the 1st respondent in trying to accord lay out permission in respect of the lands in Sy. Nos. 12, 14, 15, 26 and 28 admeasuring Ac. 51.06 guntas situated at Jellelaguda (v), Saroornagar Mandal, R.R. District, in favour of the unofficial respondents, till the finalization of the proceedings before the 2nd Respondent Mandal Revenue Officer, Saroornagar, in file No.B.2243/2003, by considering the representation dt. 7-4-2003, 17-9-2003; 10-10-2003 17-11-2003 as illegal, arbitrary and opposed to the evidence record and for a consequential order directing the 1st respondent not to proceed with the sanctioning of lay out permission in favour of the

un-official respondents in respect of the above mentioned land.

Counsel for the Petitioner: MR.CH.DHANAMJAYA (not present)

Counsel for the Respondent No.1: S.C. for Hyderabad Urban Development Authority

Counsel for the Respondent No.2: G.P. for Revenue

Counsel for the Respondent Nos.3 to 7: None appeared

The Court, at the admission stage, made the following :

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ORAL ORDER:

None appears for the petitioner. Heard the learned Government Pleader for Revenue and perused the record.

The petitioner has filed this writ petition to issue a Mandamus declaring the action of the 1st respondent in trying to accord permission for lay out in respect of the lands in S.Nos.12, 14, 15, 26

and 28 admeasuring Ac.51.06 guntas in favour of the unofficial respondent Nos.3 to 7 pending finalization of the proceedings with the 2nd respondent for issuance of pattadar passbooks and title deeds as arbitrary and illegal.

Once the unofficial respondents tried to make an application for sanctioning of lay out, the remedy available to the 1st respondent is to notify the same and invite objections and after considering such objections, the 1st respondent has to pass appropriate orders on the application. In view of the same, the 1st respondent has to follow due procedure before granting lay out.

The 1st respondent filed a counter stating that the 5th respondent has filed an application duly enclosing pattadar passbook and title deed issued by the revenue authorities before the 1st respondent on 11.6.2001 for issuance of lay out in S.No.12 admeasuring Ac.04.39 guntas. The same was recommended and a draft lay out was issued on 27.4.2002. At this stage, the learned counsel, on behalf of the petitioner, issued legal notice requesting the 1st respondent not to accord permission and stated that the father of the petitioner purchased the land. On receipt of the legal notice, the 1st respondent replied to the petitioner and also issued notice to the 5th respondent to submit one of the ownership documents in support of their claim and the 5th respondent was called upon to submit one of the ownership documents over the land and in reply to the notices, both the 5th respondent as wells the petitioner filed certain documents; and on verification of the documents, it was noticed that the 4th respondent purchased the land in the year 1964 itself whereas, the petitioners' father came to purchase the land in the year 1969. Further, in O.S.No.30 of 1971, the petitioner's father and the 4th respondent compromised the suit, which was decreed in favour of the 4th respondent. Another suit in O.S.No.436 of 1988, was filed by the legal heirs of B.Veeraiah, who is the plaintiff in O.S.No.30 of 1971

against the 6th respondent which was dismissed on 6.7.1999 and pattadar passbooks and title deeds have been issued in favour of 5th respondent and the Proceedings, dated 29.1.2000 issued by the Mandal Revenue Officer also proved the title of the 5th respondent.

In view of the same, the 1st respondent cannot decide the title of either the petitioner or the 5th respondent except *prima-facie* documentary evidence whether the 5th respondent is entitled to the sanctioning of lay out or not, for which, a necessary draft lay out was recommended and issued on 27.4.2002 in favour of the 5th respondent. Since the 1st respondent cannot decide either of the title deeds, appropriate remedy if any available to the petitioner is to move the competent civil Court to establish his title over the lands and seek appropriate relief.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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(A. GOPAL REDDY, J.)

2nd November, 2004.

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To

1 The Estate Officer, Hyderabad Urban Development Authority, Begumpet, Hyderabad.
2 The Mandal Revenue Officer, Saroornagar Mandal, R.R. District.
3 Two C.Cs. to the Government Pleader for Revenue, High Court Buildings, Hyderabad (OUT)

4 Two C.D. Copies